IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

FRIDAY, THE 8TH DECEMBER 2006 / 17TH AGRAHAYANA 1928

WP(C).No. 20536 of 2006(T)

PETITIONER:

DR.JOHN.A., LECTURER, SELECTION GRADE, DEPARTMENT OF HISTORY, KARMELA RANI TRAINING COLLEGE, KOLLAM.

BY ADV. SRI.S.MUHAMMED HANEEFF

RESPONDENTS:

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1. DEPUTY DIRECTOR OF COLLEGIATE EDUCATION, KOLLAM.

2. DIRECTOR OF COLLEGIATE EDUCATION, THIRUVANANTHAPURAM.

3. STATE OF KERALA, REP. BY ITS SECRETARY TO GOVERNMENT, HIGHER EDUCATION DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.

4. PRINCIPAL, KARMEL RANI TRAINING COLLEGE, KOLLAM.

BY GOVERNMENT PLEADER SRI. T.T. MUHAMMED.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON ON 08/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC. 20536/2006.

APPENDIX

PETITIONER'S EXTS:

EXT. P1 : TRUE COPY OF THE ORDER NO.AC.F1.041298/2003 DATED 16.2.2004 ISSUED BY THE KERALA UNIVERSITY.

EXT. P2 : TRUE COPY OF THE JUDGMENT DT. 25.8.2003 IN W.P.(C) 23870/2003 OF THIS HON'BLE COURT.

EXT. P3 : TRUE COPY OF THE JUDGMENT DT. 30.6.2005 IN W.P.(C) 19589/2005 ON THE FILE OF THIS HON'BLE COURT.

RESPONDENTS' EXTS:

EXT. R1(a) : COPYOF THE RELEVANT PORTION NOTED INT HE GOVERNMENT ORDER.

EXT. R1(b) : ORDER CLAUSE V DEALS WITH CAREER ADVANCEMENT.

EXT. R1(c) : G.O.(P) NO.44/2001/H. EDN. DATED 29.3.2001.

K.M.JOSEPH, J.

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WP.(C) No.20536 OF 2006

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Dated this the 8th day of December, 2006

JUDGMENT

Case of the petitioner in brief is as follows:

Petitioner was appointed as Lecturer in the Training College. It was approved. He was placed in the Senior Scale and further into the Selection Grade and it was approved by Ext.P1. Petitioner acquired Ph.D on 9.10.1995. Government issued orders in implementation of UGC Scheme. Clauses 6.16, 6.23 to 6.25 state that incentives are provided for those who are having Ph.D/M.Phil by providing for two advance increments. On the basis of the above provision, petitioner is eligible for two advance increments when he moved into Selection Grade. Petitioner relied on Exts.P2 and P3 judgments. It is the specific case of the petitioner that even though petitioner moved the first respondent seeking two advance increments, the same stands returned on the ground that the the petitioner is not eligible as he acquired Ph.D prior to 1.1.1996. This question has been considered by this court in Exts.P2 and P3 judgments. Whatever that be, the petitioner relied on

the judgment in W.A.1044 of 2005 and connected matters, wherein the Division Bench has considered this matter and in the light of the same it is contended that there is no scope for any further contention that the persons who have obtained Ph.D prior to 1.1.1996 will not be entitled to two advance increments.

2. Counter affidavit is filed on behalf of the first respondent. Therein the contention taken essentially is that petitioner was given service relaxation on the basis of acquisition of Ph.D. In the counter affidavit it is stated as follows:

> "The petitioner acquired Ph.D on 9.10.1995. He has been given service relaxation for 3 years for the next promotion as envisaged in the Government Order referred above and promoted as Selection Grade with effect from 27.7.1998. If he were not given the service relaxation, he would be eligible for the selection grade only w.e.f. 16.7.2003. The above promotion given w.e.f. 27.7.1998 in selection grade was also under the norms based in the revised U.G.C. Scheme.
>
> As the teacher was appointed in 1987 and he has enjoyed all the benefits as envisaged in the U.G.C. Implementation order vide G.O.(P) No.79/90/H.Edn. Dated

27.3.1990 with effect from 1.1.1986."

3. Ext.R1(c) is relied on by the first respondent. I find that reliance placed on Clause 4 of Ext.R1(c) to contend that having obtained relaxation in the number of years for grant of Senior Grade and Selection Grade on the basis of possession of Ph.D., a teacher is not entitled to advance increment is without any basis. No doubt Clause 4 provides that the incentives specified in para 6.16 to 6.18 of the Government order dated 21.12.1999 are not eligible simultaneously. They do not deal with relaxation of service required based on the possession of Ph.D. If that is so, the case of the petitioner has to be considered in accordance with law and in accordance with the Division Bench judgment in W.A. No.1044 of 2005.

Accordingly the writ petition is disposed of directing the first respondent to consider the claim of the petitioner for advance increments and to take a decision in accordance with law bearing in mind the judgment of this court in W.A.1044 of 2005 and connected cases within two months of receipt of a copy of this judgment.

sb. (K.M. JOSEPH, JUDGE)

K.M.JOSEPH, JJ.

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W.A. No. OF

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JUDGMENT

Dated this the day of February, 2006.